

REMARKS

By this Amendment, applicants have amended claims 1, 11 and 21, and added new claims 33-36. Thus, upon entry of this Amendment, claims 1, 4-21 and 24-36 will be in the present application.

In the Office Action, the Examiner has rejected claims 1, 4-21 and 24-32 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,201,708 to Martin. Applicants respectfully traverse that rejection.,

Martin discloses a self-locking safety syringe having a pair of manually depressible “locking tabs 52 and 54, which are designed to be compressed by finger of a user.” Column 3, lines 22-25. The locking tabs permit repeated movement of the needle guard 12 between an extended position (in which the needle is covered), and a retracted position (in which the needle is exposed). Martin discloses no limitation on the number of times the shield may be moved between its two positions. Martin is clearly directed to a self-locking safety syringe having a shield that may be manipulated by a user to cause the shield to be moved from a position covering the needle to a position in which the needle is exposed. Martin is further clearly directed to a reusable device (see, e.g., column 5, lines 39-68 and column 6, lines 1-10, which describe use of the device during which the user causes the shield to be moved away from the needle on two occasions (i.e., during filling of the syringe and during injection)). A user of the device disclosed by Martin can release the shield from its position covering the needle as many times as desired by merely depressing the locking tabs. While applicants agree that Martin discloses a device having a shield that locks in place over the needle, Martin also clearly

discloses that a user may selectively release the shield from that locked position to expose the needle. That is precisely the problem to which applicants' invention is directed: preventing exposure of the needle after use. Martin neither discloses nor suggests that feature. In fact, applicants respectfully submit that the disclosure of Martin of a reusable device teaches away from their invention.

Applicants' invention, in contrast to the disclosure of Martin, is directed to a single-use device. With applicants' invention, once the shield is caused to move from the first position to the second position, and then move from the second position to the first position, subsequent movement of the shield out of the first position is not possible. The free end of the resilient finger, which is non-depressible by a user, prevents such subsequent movement thereby locking the shield in place over the needle and eliminating the possibility of accidental needle-stick injury to a user of the device or to a patient. Such a device is neither disclosed nor suggested by Martin or any other prior art reference of record in the present application.

Moreover, Martin fails to teach or suggest a safety shield system having a resilient finger with a free end portion that passes freely over an opening defined through a sidewall of a shield as the shield is first moved from a first position in which the shield covers a needle, to a second position in which the needle is exposed, as claimed by applicants. Martin discloses tabs 52, 54 that are positioned in openings 56, 58 when the shield is in position over the needle (i.e., the first position). Thus, the tabs 52, 54 of Martin cannot pass freely over openings 56, 58 when the shield is moved from the first position to the second position, as recited by applicants' claims. In addition to the distinguishing remarks set forth above, applicants further respectfully submit that

Martin fails to teach every limitation recited by the claims of the present application, as is necessary of a proper 35 U.S.C. §102 reference.

Thus, in view of the distinguishing points set forth above, applicants respectfully submit that their invention, as recited by the claims of the present application, is patentable over Martin or any other prior art reference of record in the present application. Applicants further respectfully submit that the Examiner's rejection of the claims is no longer tenable, and applicant respectfully requests withdrawal of that rejection.

Finally, applicants respectfully submit that claims 1, 4-21 and 24-36 are patentable over the prior art references of record in the present application, and request allowance of the present application.

Applicant hereby authorizes the Commissioner to charge the fees necessary in connection with this Amendment and any other fees necessary in connection with this application, to Deposit Account Number 02-1666.

Any questions concerning this application or amendment may be directed to the undersigned agent of applicant.

Respectfully submitted,

Dated: January 16, 2004

By:



David M. Fortunato
Attorney for Applicant(s)
Reg. No. 42,548
(201) 847-6940